FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.
CRIMINAL APPLICATION NO. 5795 OF 2004.
IN
CRIMINL APPEAL NO. 1547 OF 2004. .

Raju Vasant Patkar. .. Applicant.
vs.
The State of Maharashtra. .. Respondent.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders. : Court's or Judge's orders :

Shri A.S. Khandeparkar with Vikas Kolekar
for the applicant.
Shri D.P.Adsule, A.P.P. for the State.

CORAM: V.M.KANADE,J.
DATED: 2-2- 2005.

P.C.:

1. Heard learned Counsel appearing on behalf of the applicant and the learned A.P.P. for the State.

2. Applicant is convicted by the trial Court for having committed an offence punishable under section 392 of the I.P.C. and he is sentenced to suffer R.I. for 7 years.

3. Learned Counsel appearing for the applicant submitted that the only evidence against the present applicant is in the form of identification by P.W.1 in the test identification parade which was conducted by the investigating officer.

There is obviously a lacuna in the test identification parade inasmuch as this witness has admitted in his cross-examination that he had seen the applicant in the police station after his statement was recorded by the police. He further submitted that there is no recovery made at the instance of the applicant and there are no antecedents against the applicant. He further submitted that the applicant was on bail during trial and he has not misused his bail.

4. Learned A.P.P. for the State submitted that the applicant along with others had committed robbery with the help of lethal weapons. He submitted that one of the accused also had a chopper. He submitted that the main accused was apprehended near the scene of offence. He therefore, submitted that the applicant is not entitled to be released on bail.

5. Considering the fact that the applicant was seen by P.W.1 in the police station prior to the test identification parade and also considering the fact that there is no recovery at the instance of the applicant, in my view, this is a fit

case to release the applicant on bail. Applicant be released on bail in the sum of Rs. 5,000/- (five thousand) with one or two sureties in the like amount. Applicants shall however, report to Shivaji Park Police Station once in a week.